



**Comptroller General  
of the United States**

**Washington, D.C. 20548**

# **Decision**

**Matter of:** East West Research, Inc.

**File:** B-238892

**Date:** July 3, 1990

Richard Snyder, for the protester.  
Philip F. Eckert, Jr., Esq., Defense Logistics Agency,  
Defense General Supply Center, for the agency.  
John Formica, Esq., and John Brosnan, Esq., Office of the  
General Counsel, GAO, participated in the preparation of the  
decision.

## **DIGEST**

1. Agency may request technical data and information pertaining to the manufacture of a product from the firm listed as the product's manufacturer in the item description of a request for quotations.
2. Agency may, after the submission of the initial quotations, request and consider technical information from a firm offering an alternate product in its response to a request for quotations.

## **DECISION**

East West Research, Inc. protests that the Defense General Supply Center (DGSC), Defense Logistic Agency, has improperly requested information concerning its product which is listed in the procurement item description of request for quotations (RFQ) No. DLA400-89-T-J155, issued by DGSC for welding rods. The protester also complains that the agency has improperly accepted the quotations of other firms.

We deny the protest.

The RFQ requested quotations for 20 containers of welding rods. The item description named East West and Eutectic Corporation as approved manufacturers of the welding rods, and included part numbers TAURUS/G 1/8 for East West and XUPER 18XFC for Eutectic. The RFQ provided that firms were to identify in their quotations whether they were offering one of the products listed in the item description, known as

048892/141788

an "exact product," or an "alternate product." The RFQ explained that quotations offering alternate products required the submission of technical data for evaluation purposes, and warned that failure to furnish the necessary information may preclude consideration of the quote.

Four quotations were received in response to the RFQ. The two low quotations offered to supply an alternate product manufactured by Hi-Alloy Weld Specialties. East West submitted the third low quotation, offering to furnish its product as listed in the solicitation's item description. The fourth firm offered to supply the listed Eutectic product.

The agency found that the technical data on the alternate product proposed by the two lowest quoters was insufficient and it requested additional information from those firms. Further, the agency wrote to East West informing it that in order to have its part number retained in the item description it must submit copies of the technical data used to make the item, so that the agency could be assured that the firm listed is either the manufacturer of the item, or controls its manufacture and design. The agency sent an identical letter to Eutectic.

Eutectic supplied the requested information. East West, however, refused to provide the information and has protested to our Office that DGSC's request for the information is "untimely" since it failed to make the request until after the due date for quotations. It is the protester's view that the information is unnecessary since the item description containing its part number has been used since 1985 to procure welding rods.

We agree with East West that it would have been better had the agency determined its need for additional information concerning this item description prior to the closing date for receipt of quotations. Nevertheless, contrary to East West's view, there are no timeliness rules governing the agency's action. The timeliness requirements contained in our Bid Protest Regulations are applicable only to protests filed by interested parties against an agency solicitation or a proposed award or actual award made by an agency. 4 C.F.R. §§ 21.1(a), 21.2 (1990). An interested party is defined as an actual or prospective bidder or offeror with a direct economic interest in the award of a contract. 4 C.F.R. § 21.0(a).


As far as the request for information itself is concerned, the agency explains that it does not currently have sufficient information in its files to determine whether

East West is either the manufacturer of the item, or that it has control over its manufacture and design. The agency explains that it wants only such firms listed in its item description because those firms have control over the technical characteristics of the item and can ensure that its part number reflects the most current configuration of the item. According to the agency, listing the manufacturer will permit other firms to identify the source of the item and thus enable them to obtain the item and to compete under the RFQ.

The protester does not dispute this explanation but in essence argues that since the item has been obtained in the past without problems there is no need for the additional information. We disagree. The agency has the discretion to determine what information it needs in order to include a firm in an RFQ item description. We will not interfere with the agency's action in this regard unless we find that the agency's request is without a reasonable basis. Here, the agency has supplied a reasonable explanation for its request, so we have no basis upon which to object to it.

East West also contends that the agency is precluded from considering the quotations of the two firms which offered the alternate product because they initially failed to provide information sufficient to enable the agency to determine the product's technical acceptability. Under small purchase procedures, an agency is not prohibited from requesting or considering additional information concerning quotations. See Oregon Innovative Prods., B-231767, Aug. 2, 1988, 88-2 CPD ¶ 110. As such, DGSC did nothing improper in requesting that the firms submitting quotes on the alternate product submit additional technical information.

The protest is denied.

  
for James F. Hinchman  
General Counsel